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LEGAL STATUS *of* WOMEN OF ALBERTA

as Shown by Extracts from Dominion and Provincial Laws

Compiled by
HENRIETTA MUIR EDWARDS
Second Edition



and under the authority of the Attorney-General
1921

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CONTENTS.

Interpretation

Preface to Second Edition.....

Preface to First Edition.....

CHAPTER I.

Marriage

CHAPTER II.

Divorce

CHAPTER III.

Dower and Tenancy.....

CHAPTER IV.

Property

CHAPTER V.

Married Woman's Relief Act.....

CHAPTER VI.

Wills

CHAPTER VII.

Devolution of Estates.....

CHAPTER VIII.

Guardians, Trustees and Administrators.....

CHAPTER IX.

Equal Parental Rights.....

CHAPTER X.

Mothers' Pensions.....

CHAPTER XI.

Children Born out of Lawful Wedlock.....

CHAPTER XII.

Franchise

CHAPTER XIII.

Naturalization

CHAPTER XIV.

Factory Act.....

CHAPTER XV.

Extracts from the Criminal Code.....

CHAPTER XVI.

Venereal Diseases.....

CHAPTER XVII.

Miscellaneous

INTERPRETATION.

- "Infant" a minor, a person under twenty-one years of age.
- "Inchoate" begun, but not completed.
- "Coverture" the time of a woman between marriage and the dissolution of that marriage.
- "Feme sole" an unmarried woman.
- "Ventre sa Mère" the mother's womb.
- "C. O." Consolidated Ordinances of the North-West Territories.
- "Ord." Ordinance of the North-West Territories.
- "S. C." Statutes of Canada.
- "S. A." Statutes of Alberta.
- "C. Code." Criminal Code.
- "Dom. Code." Dominion Code.
- "R. S." Revised Statutes.
- "Hals." Halsbury's Laws of England.

PREFACE TO SECOND EDITION.

As the first issue of 3,000 of the "Legal Status of Women of Alberta" was soon exhausted, the Government is publishing this Second Edition in order to supply, in a concise form, information in answer to the many requests that are made regarding the laws relating to women.

When the first edition of "The Legal Status of Women of Alberta" was published in 1917, the Alberta Government led the way in Canada in recognizing through its legislation the value to the state of woman's brain and capacity for service. Since then, Alberta has continued to hold this lead, not only giving to its women the minor positions of trust, but calling them to the highest places of honour. Alberta was the first Province in Canada to call women to a Legislative Assembly, the first to ask a woman to accept a judge's seat in the Courts of Justice and the first to hand her Aldermanic honours. Alberta was the first Province to grant equal provincial and municipal suffrage regardless of sex distinction; the first to grant absolute equal parental rights, not only as co-guardian but giving to the mother in 1920 every right in her child that had been exclusively held by the father, even to sharing with the father his rights in the intestate estate of his son or daughter.

In addition to bringing "The Legal Status of Women of Alberta" up-to-date, including Amendments to former Statutes and new Acts, legislation on a number of other subjects has been quoted.

Attention is especially called to the recent Amendments

to the Criminal Code for the better protection of women and children and also to the protection afforded to unhappy and ill-used wives through some of the English laws in force in the Province.

HENRIETTA MUTR EDWARDS.

Macleod, Alberta, December. 1920.

PREFACE TO FIRST EDITION.

The women of Alberta, except in dower rights, are more favoured in regard to legal status than are those of any other Province in Canada. The Government's appreciation of the work of the women in standing shoulder to shoulder with their men folk in the development of their country, has been shown by giving to them this premier place in the Dominion.

The courteous and sympathetic understanding with which our Premier and members of his Cabinet have always received those women who had occasion to interview the Government in their efforts to remedy existing laws that press unfairly on their less fortunate sisters, has been in strong contrast to that of the Governments of some of the other Provinces. In this connection I would like to point out that the laws that disqualify Alberta women because of sex are Dominion and not Provincial, except those that relate to parentage and in these they are given more rights than are other Canadian mothers.

In preparing "The Legal Status of Alberta Women," the purpose was to supply in a concise form, information to those women in the Province who are seeking knowledge of the laws that particularly concern them. It is not offered as a legal guide, but rather as a text book in the hope that it will lead

to further study; therefore the source of the information presented is given in almost every case. A woman desiring to have her interests legally guarded should consult a qualified lawyer and not rely upon any knowledge she may acquire through this pamphlet or elsewhere, as "it depends" is truer in law than in anything else.

The laws of Alberta are not codified as are the civil laws of Quebec. Broadly speaking we are governed by the laws of England, the Dominion laws, the Ordinances of the North West Territories and the laws passed by our own Legislature. By the British North America Act all the laws, civil and otherwise, of England came into force in Canada and remain in force unless repealed, substituted, altered or amended by the Dominion or the Provinces. When the North West Territories were joined to Canada, these English Acts, which were unrepealed or unamended by the Dominion, with subsequent Acts passed by the Dominion, became the laws of the Territories; when Alberta was made a Province in 1906, the English law (as it was before the British North America Act) which remained unrepealed or unamended, the Dominion Acts and the Ordinances of the North West Territories became the law of Alberta. All these laws, unless repealed or amended, and the Acts since 1906 passed by the Legislature of Alberta, are in force in the Province.

HENRIETTA MUIR EDWARDS.

Macleod, Alberta, December, 1916.

CHAPTER 1.

MARRIAGE.

The Acts governing marriage in the Province of Alberta are: ~~the~~ Marriage Ordinance, being chapter 46 of the Consolidated Ordinances 1898 of the Territories and amendments thereto by the Legislative Assembly of the Territories up to 1906 with amendments by the Legislative Assembly of Alberta; the Dominion Acts relating to marriage and also the Common Law of England as it was in force in 1870 when the Territories were joined to Canada, except as altered by enactments of the Dominion, the Territories and Alberta Legislatures.

Marriage does not legally disqualify a woman in Alberta, except in so far as it affects her nationality and domicile.

Marriage revokes a will. (R. S. of Canada, Chap. 50, sec 33.)

Contracting parties must be of the age of twenty-one years, or if under the age of eighteen years, must have the consent of both father and mother, or such of them as may be living, if between the age of eighteen years and twenty-one years the consent of one parent, either father or mother. If no father or mother living, the consent of guardian is necessary. (Statutes of Alberta 1916. cap. 3, sec. 20.)

Proviso:

“Provided that where either of the contracting parties is of the age of at least eighteen years, and is maintaining himself or herself and living apart from his or her parents, he or she need not obtain such consent, but shall make an affidavit

clearly setting out the above facts, and file the same with the issuer of the license." (Statutes of Alberta 1919, cap. 4, sec. 48.)

No marriage is legal if contracting party is under fifteen years of age, except where marriage is necessary to prevent illegitimacy of offspring and a certificate to that effect is given by a legally qualified medical practitioner. (Statutes of Alberta 1916, cap. 3, sec. 20, and Statutes of Alberta 1919, cap. 4, sec. 48.)

The Requisites of a valid marriage are:

1. That each of the parties should as regards age, mental capacity and otherwise be capable of contracting marriage.

2. That they should not by reason of kindred or affinity be prohibited from marrying one another. (A husband is of affinity to his wife's kindred, and a wife to the kindred of the husband).

3. That there should not be a valid subsisting marriage of either of the parties with any other person.

4. That the parties understanding the nature of the contract should fully consent to marry one another, and

5. That certain forms and ceremonies should be observed. Mere dullness of intellect is not of itself sufficient to incapacitate a person from marrying. The capacity of contracting marriage depends upon whether at the time of the marriage he or she was capable of understanding the nature of the contract.

Who may not marry:

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage:

A man may not marry his

1. Grandmother.
2. Grandfather's wife
3. Wife's grandmother.
4. Aunt.
5. Uncle's wife.
6. Wife's aunt.
7. Mother.
8. Step-mother.
9. Wife's mother.
10. Daughter.
11. Wife's daughter.
12. Son's wife.
13. Sister.
14. Granddaughter.
15. Grandson's wife.
16. Wife's granddaughter.
17. Niece.
18. Nephew's wife.
19. Brother's wife.

A woman may not marry her

1. Grandfather.
2. Grandmother's husband.
3. Husband's grandfather.
4. Uncle.
5. Aunt's husband.
6. Husband's uncle.
7. Father.
8. Step-father.
9. Husband's father.
- ✓ 10. Son.
11. Husband's son.
12. Daughter's husband.
13. Brother.
14. Grandson.
15. Granddaughter's husband.
16. Husband's grandson.
17. Nephew.
18. Niece's nephew.
19. Husband's nephew.
20. Husband's brother.

The relationships set forth in this table include all such relationships whether by the whole or half blood, and whether legitimate or illegitimate.

By Dominion Act 53 Vict., c. 36, sect. I, it is enacted that "All laws prohibiting marriage between a man and the daughter of his deceased wife's sister where no law relating to consanguinity is violated are hereby repealed both as to past and future marriages."

An Act permitting marriage with deceased wife's sister passed in Canada 1882, May 17th. A similar Act passed in England 1907.

It may be noted that a man may marry his sister-in-law, but a woman may not marry her brother-in-law. A man may marry his deceased wife's niece, but a woman may not marry her deceased husband's nephew.

A bill to amend the Marriage Act of Canada was introduced in the House of Commons by Mr. Mackie of Edmonton and read the first time April 29th, 1920, but was not again dealt with.

The amendment was to legalize the marriage of a woman with the brother of the deceased husband of the woman.

Marriage Invalid Ab Initio.

A marriage between persons of prohibited degrees of consanguinity or affinity is absolutely null and void for all purposes whatsoever. (Hals., Vol. 16, 256.)

Marriage Voidable.

Inability to consummate a marriage is now the only cause (except nonage) for which though not void, it is voidable and may be avoided. If the condition of one of the parties thereto at the time of marriage renders consummation practically impossible this makes the marriage voidable only not void.

Such marriages are deemed valid unless a sentence of nullity is absolutely obtained during the lifetime of the parties. (Hals., Vol. 16, 970.)

Who May Solemnize Marriage.

(C. O. of the Territories, cap. 46, 1915.)

All clergymen and ministers duly ordained and appointed according to the various rites of the religious societies to which they belong, commissioners and staff officers of the Salvation Army, and commissioners appointed for that purpose by the Lieutenant-Governor in Council.

Solemnization of Marriage.

Publication of banns, or license, or notice in prescribed form to a marriage commissioner and a license is necessary to solemnization of marriage.

Must be solemnized in the presence of two or more credible witnesses besides the person performing the ceremony.

Publication of Banns.

Must be made at least thrice openly on two successive Sundays in some public religious assembly. (C. O. 1915, cap. 46. sec. 3.)

Marriage License.

License fee \$6.00; of which issuer shall be entitled to retain \$1.50 as his fee. (Statutes of Alberta 1920.)

The Marriage Ordinance of the C. O. of the Territories of 1898 was amended in 1916 as follows:

Sec. 9: by adding "and provided further that no license shall be issued or granted for the marriage of any person under the age of fifteen years."

Sec. 11: repealed and the following substituted "Sec. 11. If one or both of the parties to an intended marriage is under the age of twenty-one years, then before a marriage license is issued in respect thereof, or, in case where no marriage license is required, then before the publication of banns thereof or before any such marriage is performed or contracted, one of the parties to the intended marriage shall deposit with the issuer of marriage licenses, or with the minister or clergyman or other person authorized by this Ordinance to perform the marriage ceremony, a consent thereto in form G in the schedule hereto of the persons hereinafter mentioned.

"(2) The persons whose consent in such form shall be deposited are:

“(a) The father and mother or such of them as may be living of each of the parties to the intended marriage where the parties are under eighteen years of age and the father or mother where the parties are between the ages of eighteen and twenty-one;

“(b) If both the father and mother of either or both of the parties to the intended marriage are not then living, then a lawfully appointed guardian or the acknowledged guardian.”

The Ordinance further amended in 1919 sec. 11 sub-sec. 2 exempting those over eighteen years of age living apart from parents and self-supporting, from the necessity of consent of parents or guardians.

Civil Marriage.

In the event of either or both parties to an intended marriage objecting to or not being desirous of adopting marriage by a clergyman or minister of any religious denomination or by a commissioner or staff officer of the Salvation Army, then and in that case one of the parties to the intended marriage shall at least fourteen clear days immediately preceding the day of the intended marriage give notice in writing in form C in the schedule hereto to a marriage commissioner, and an affidavit taken and sworn in form B in the schedule to the Marriage Ordinance and the necessary consent (if any) in form G as provided in section 11 of the Marriage Ordinance shall be deposited with such marriage commissioner by one of the parties to the intended marriage; and forthwith upon receipt of such notice, affidavit and consent (if any), the particulars of such intended marriage shall be entered in a book to be kept for that purpose by the marriage commissioner in his office, which said book shall be open to the inspection of the public at all reasonable hours.

After the expiration of the said period of fourteen days

and after the issue of a certificate form E, marriage may be contracted in the office of and solemnized by the said marriage commissioner according to the form and the manner herein mentioned but not otherwise.

(a) Provided that the marriage be contracted with open doors in the presence of two or more credible witnesses, besides the marriage commissioner.

(b) Provided further that in the presence of such marriage commissioner and witnesses, each of the parties shall declare that "I know not of any lawful impediment why I, A. B. may not be joined in matrimony to C. D.," and each of the parties shall say to the other, "I call upon these persons here present to witness that I, A. B., do take thee, C. D., to be my lawful wife (or husband)."

(c) Provided also that there be no lawful impediment to the lawful marriage of such parties.

(C. O. Cap. 46 as amended by Ordinance, Cap. 17, 1901. which is amended by Statute of Alberta, 1916, Cap. 3, sec 21.)

Marriage of Quakers or Doukhoborts.

In case any Quakers or Doukhoborts desire to be married according to the rites and ceremonies of their own religion or creed, one of the parties to the intended marriage shall, at least eight days immediately preceding the day of intended marriage, give notice in writing in form C in the schedule hereto to a marriage commissioner and an affidavit declaration taken and sworn or made in form B in the schedule hereto and the necessary consent (if any) in form G as provided in section of the Marriage Ordinance shall be deposited with such marriage commissioner, by one of the parties to the intended marriage; and forthwith after the performance of the said rite or ceremony the parties thereto shall sign a declaration in form F in the schedule hereto,

such declaration being made and signed in the presence of two witnesses who shall each severally attest such declaration by their signatures, and such declaration shall within eight days from date of such marriage be delivered by one or other of the parties so married to the marriage commissioner.

Form D of the Ordinance is repealed.

Form G added.

Form G.

I (or we) hereby consent to the marriage of my (son, daughter or ward) with and I certify that my said..... is over the age of fifteen.

Dated at this day of.....

Witness:.....

(S. A. 1916, cap. 3, sec. 21.)

Registration of Marriage.

Sec. 22. Every clergyman, minister or any person authorized by law to celebrate marriages shall report every marriage he celebrates to the Registrar-General within three days from the date of the marriage with the particulars required by form B in the schedule of this Act, together with such additional information as may from time to time be required by the Registrar-General (Am. 1919, in effect from 1st July, 1919.) (Vital Statistics Act of 1916 as amended 1919.)

Husband must Provide for Wife and Children.

Sec. 242 A. Every one is guilty of an offence and liable in summary convictions to a fine of 500 dollars, or to one year's imprisonment, or to both, who—

(a) As a husband or head of a family, is under a legal duty to provide necessaries for his wife or any child under sixteen years of age; or,

(b) As a parent or guardian, is under a legal duty to provide necessaries for any child under sixteen years of age; and who, if such wife or child is in destitute or necessitous circumstances, without lawful excuse, neglects or refuses to provide such necessaries.

Sec. 242 B. Upon any prosecution under section 242 or 242A, evidence that a man has cohabited with a woman or has in any way recognized her as his wife shall be *prima facie* evidence that they are lawfully married, and evidence that a man has in any way recognized children shall be *prima facie* evidence that they are his legitimate children. (Amendments to C. Code, 1913.)

Sec. 242 C. Upon any prosecution under section 242A, evidence that a man has, without lawful cause or excuse, left his wife without making provision for her maintenance for a period of at least one month from the date of his so leaving, or for the maintenance for the same period of any child of his under the age of sixteen years, shall be *prima facie* evidence of neglect to provide necessaries under this section. (1919, c. 46.)

Sec. 244. Every one is guilty of an indictable offence and liable to three years' imprisonment who, being bound to perform any duty specified in the three preceding sections, without lawful excuse neglects or refuses to do so, unless the offence amounts to culpable homicide. (Criminal Code, 1919.)

Right to Pledge Husband's Credit for Necessaries, English Law, Prior to 1870

Where a husband deserts his wife or turns her out of his house (selling up all furniture and leaving his wife to obtain

lodgings for herself is equivalent to turning her out of doors without adequate cause (adultery), and without the means of supplying herself with the necessities suitable to her position in life, she has an irrevocable authority, as an agent of necessity, to pledge his credit for the purpose of providing herself with such necessities.

Money borrowed by a wife so deserted or turned away is recoverable from the husband, if it is shown to have been actually expended by her in providing suitable necessities. (865.)

If a husband is guilty of personal violence or by his cruelty or ill-treatment gives his wife reasonable ground for apprehending personal violence, and so renders it unsafe for her to continue to live with him, and she leaves him in consequence, that is equivalent, for the purpose of investing her with authority to pledge his credit for necessities, to turning her out of doors, and so is such misconduct as bringing a loose woman into the house and cohabiting with her there, or threatening to have the wife confined in a lunatic asylum. If a husband merely asks his wife to come back, this does not affect her authority, if the consequence of her return, may be to subject her to a repetition of the cruelty or misconduct for which she has left him. (866.)

The term "necessaries," in respect of which a wife is entitled to pledge her husband's credit as an agent of necessity when living apart from him, includes all such things as she reasonably requires, regard being to her station and the actual means and position of her husband. (868.)

Husband liable for cost incurred by wife as agent of necessity for legal advice. (872.) Hals. Vol. 16.

A Husband Liable for the Torts of His Wife

"Torts are injuries done to the person or property of

another, as trespass, assault and battery, defamation and the like."—Blackstone.

Before the passing of the English Married Women's Property Act, the husband was responsible for his wife's torts. It is held that Sec. 31 of the English act only made it optional as to the plaintiff suing either the wife alone or the husband of the accused. In the Courts of England, Ontario, British Columbia and Alberta, it has been laid down that notwithstanding the right given in the Married Women's Property Act to sue the wife apart from her husband, a husband is still liable for the torts of his wife. (See judgment given in *McArthur vs. Tyas*, June, 1920, Judge Green, Medicine Hat.)

Husband and Wife Shall Give Evidence

Sec. 4 (2). The wife or husband of a person charged with an offence against any of the Sections 202 to 206 inclusive, 211 to 219 inclusive, 238, 239, 242A, 244, 245, 298 to 302 inclusive, 307 to 311 inclusive, 313 to 316 inclusive of the Criminal Code, shall be a competent and compellable witness for the prosecution without the consent of the person charged. (1917, c. 14.)

(3) No husband shall be compellable to disclose any communication made to him by his wife during their marriage, and no wife shall be compellable to disclose any communication made to her by her husband during their marriage.

(4) Nothing in this section shall affect a case where the wife or husband of a person charged with an offence may at common law be called as a witness without the consent of that person. (Canada Evidence Act as amended to 1919 inclusive.)

Husband Must Not Beat His Wife.

Sec. 292 amended by adding thereto paragraph:

(c) Every one is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped, who assaults or beats his wife or any other female and thereby does her bodily harm. (Criminal Code, 1919.)

Husband or Wife Not Accessories After the Fact

Sec. 71. An accessory after the fact to an offence is one who receives comforts, or assists one who has been a party to such offence in order to enable him to escape, knowing him to have been a party thereto.

2. No married person whose husband or wife has been party to an offence shall become accessory after the fact thereto by receiving, comforting or assisting the other of them and no married woman whose husband has been a party to an offence shall become an accessory after the fact thereto, by receiving, comforting or assisting in his presence and by his authority any other person who has been a party to such offence in order to enable her husband or such other person to escape. (Criminal Code, 1919.)

Theft

During cohabitation no husband or wife shall be convicted of stealing the property of the other, but a husband or wife shall be guilty of theft who, intending to desert or in deserting the other or while living apart from the other, fraudulently takes or converts anything which is by law the property of the other in a manner which in any other person would amount to theft. (Sec. 354. Criminal Code; 1919.)

Polygamy

Polygamy is a crime and liable to punishment of five years and fine of \$500. (Sec. 310, C. Code, 1919.)

An Indian, who according to the marriage contract of his tribe, takes two women at the same time as his wives and co-

habits with them, is guilty of polygamy under the above section. (See note to Sec. 310, C. C. 1915. Jas. Crankshaw. K.C.)

Bigamy

Bigamy is—

(a) The act of a person who, being married, goes through a form of marriage with any other person in any part of the world; or

(b) The act of a person who goes through a form of marriage in any part of the world with any person whom he or she knows to be married. (C. C. 307.)

Sub-sec. 3. No one commits bigamy by going through a form of marriage—

(a) If he or she in good faith and on reasonable grounds believes his wife or her husband to be dead; or,

(b) If his wife or her husband has been continually absent for seven years then last past and he or she is not proved to have known that his wife or her husband was alive at any time during those seven years; or,

(c) If he or she has been divorced from the bond of the previous marriage; or,

(d) If the former marriage has been declared void by Court of competent jurisdiction. (R.S.C., C. 161, 5-4.)

Sub-sec. 4. No person shall be liable to be convicted of bigamy in respect of having gone through a form of marriage in a place not in Canada, unless such person being a British subject resident in Canada, leaves Canada with intent to go through such form of marriage.

Sec. 308. Every one who commits bigamy is guilty of an indictable offence and liable to seven years' imprisonment.

(2) Every one who commits this offence after a previous

conviction for a like offence shall be liable to fourteen years' imprisonment. (C. Code, 1919.)

Offences Relating to the Law of Marriage

Sec. 309. Feigned marriages, liable to seven years' imprisonment.

Sec. 311. Solemnization of marriage without lawful authority, liable to fine or two years' imprisonment or to both.

Sec. 312. Solemnization of marriage contrary to law, liable to a fine, or one years' imprisonment.

Sec. 313. Abduction of woman with intent to marry or carnally know, liable to ten years' imprisonment.

Sec. 314. Abduction of heiress with intent to marry, or carnally know, liable to fourteen years' imprisonment. (C. Code, 1919.)

Adultery

Adultery is not a punishable offence in itself under the Criminal Code, but can be pleaded before the Senate of Canada as a reason for granting divorce.

Adultery by a woman excludes her from interest in her husband's estate. Devolution of Estates 101, C. O. 1911 and Married Women's Relief Act, Cap. 18, Sec. 10, 1910; from Alimony, C. O., Cap 29, Sec. 1.

Section 218 of the Criminal Code of 1919 reads: "Every one is guilty of an indictable offence and liable to two years' imprisonment who conspires with any other person by false pretences, or false representation, or other fraudulent means to induce any woman to commit adultery or fornication."

Adultery is an indictable offence in New Brunswick under a pre-confederation Statute of the Province. (R. vs. Strong 1915 43 N. B. R. 190, 24 Can. Cr. cas. 430; R. S. N. B. 1854, ch. 145. sec. 3.)

A husband may claim damages from any person on the grounds of having committed adultery with his wife. (Matrimonial Causes Act 1857, Hals., Vol. 16, par. 1021.)

Judicial Separation.

A husband or wife may petition for a decree of judicial separation on the grounds of adultery. (Matrimonial Causes Act, 1857, English law.)

For cruelty, or for desertion without cause, two years and upwards. (Hals., vol. 16, pr. 1019.)

False Assertion of a Marriage.

If any one falsely and maliciously asserts a marriage with another (jactitation) the latter may present a petition praying for a decree enjoying perpetual silence on the subject. (Hals., vol. 16, pr. 1016.)

Persuading a Wife to Leave Her Husband.

If a third person, without just cause persuades or entices a wife to live apart from her husband or receives or harbours her without her husband's consent, that person commits an actionable wrong.

But where a wife leaves her husband in consequence of his ill-treatment, no action will lie against any person for receiving and harbouring her. (Hals., vol. 16, 628.)

CHAPTER II.

DIVORCE.

In 1918 the Supreme Court of Alberta granted a divorce on the grounds of adultery (Board vs. Board). This judgment was appealed and the case taken to the Judicial Com-

mittee of the Privy Council of England. The appeal was dismissed and the jurisdiction of the Supreme Court of Alberta to grant divorce established by the finding of the committee that the general wording of section 9 of the Dominion Act of 1886 put into force in the Territories the law of England on divorce as it was in England in 1870.

The British North America Act 1867 gave the Dominion Parliament exclusive jurisdiction in matters of Divorce. The Dominion Parliament has never passed any general Act relating to divorce; every divorce granted by the Dominion Parliament has been by special Act on each petition and granted on grounds of adultery alone without distinction of sex.

There is therefore in Alberta the right to apply to the Dominion Parliament for divorce, where precedent has made one cause only (adultery) a ground and no distinction of sex. The cost of Dominion divorce is about \$2,000.00. Application, however, can be made in *forma pauperis*.

There is also the Supreme Court of Alberta to apply to, the cost being between \$300.00 to \$500.00. Divorce is granted under the English Divorce Act as it was in 1870. The grounds for divorce are:

In the case of a husband's petition—adultery.

In the case of a wife's petition—incestuous adultery, bigamy with adultery, rape, sodomy, bestiality or of adultery coupled with cruelty or desertion (for two years.)

A husband may claim damages from a person on the grounds of having committed adultery with his wife.

Adultery is presumed if a married woman goes to a brothel with a man, but the fact of a married man doing so may not raise an irrebuttable presumption against him.

It is not necessary in order to succeed on a charge of adultery to prove the direct fact. In nearly every case the

fact is inferred from circumstances. (Halsbury, English Law, 1019, 1020, 1021, 988, 982, 981.)

Cruelty may be defined as conduct of such a character as to cause damage to life, limb or health (bodily or mental.)

It is cruelty, wilfully and recklessly to communicate a venereal disease. Infection of venereal disease must be charged, it is not enough to charge cruelty. Proof of such disease if contracted during marriage from some other person is sufficient evidence of adultery. (Halsbury, 976.)

Jurisdiction to the Supreme Court was given in 1907 by an Act of the Legislature of Alberta, the Supreme Court Act. Section 9 of this Act provided, that in addition to the powers of the Supreme Court of the Territories, the Supreme Court of Alberta possess the jurisdiction which before July 15th, 1870, was vested in certain courts in England.

A divorce bill establishing a uniform divorce for Canada (exclusive of the Province of Quebec) passed the Senate in 1920, but owing to the pressure of business towards the end of the session did not pass the House of Commons.

Domicil is one of the deciding factors in the granting of divorce.

CHAPTER III.

DOWER AND TENANCY BY THE COURTESY.

Dower is the use for life by a widow of a portion of her husband's land. There is no dower in personal estate.

In 1870, when the Territories were first joined to Canada, the amended Dower Act of 1834 was in force in England and became the Dower Act of the North West Territories. This

dower consisted of the use for life only of one-third interest in land of which a husband died possessed, that was not disposed of by will. This act was abolished by the Dominion Parliament for the Territories in 1886.

In 1917 the Alberta Government passed a Dower Act giving the wife the use of the "homestead" for her life.

2. In this Act, unless the context otherwise requires—
The expression "homestead" shall mean—

(a) Land in a city, town or village, consisting of not more than four adjoining lots in one block, as shown on plan duly registered in the proper registry office in that behalf, on which the house occupied by the owner thereof as his residence is situated;

(b) Lands, other than referred to in clause (a) of this section on which the house occupied by the owner thereof as his residence is situated, consisting of not more than one quarter section;

(c) The expression "disposition" shall include every transfer, sale, mortgage and every other disposition by act *inter vivos* and every devise or other disposition made by will.

This Act does not make the wife the owner of the homestead, she cannot mortgage it nor dispose of it in any way. It protects the home during her husband's lifetime in so far as he cannot mortgage, incumber or dispose of it in any way without the consent of his wife in writing, executed apart from her husband by her own free will and accord and without compulsion on the part of her husband. Amended in 1919 as follows:

"Where a husband and his wife are living apart, a judge of the Supreme Court may, by order, dispense with the consent of the wife to any proposed disposition if in the opinion

of such judge it seems reasonable under the circumstances so to do."

When the wife is a lunatic or person of unsound mind notice of every such application shall be served in the manner provided by the Rules of the Supreme Court for the service of Statement of Claim on such persons. (1918.),

4. Every disposition by will of such married man and every devolution upon his death intestate shall, as regards the homestead of such married man, be subject and postponed to an estate for the life of such married man's wife hereby declared to be vested in the wife so surviving.

When at the time of the death of a married man intestate with respect to his homestead, his wife is living apart from her husband under circumstances disentitling her to alimony, no such life interest shall vest in such wife nor shall she take any benefit under this Act.

5. The residence of a married man shall not be deemed, for the purposes of this Act, to have been changed unless such change of residence is consented to in writing by the wife of such married man.

8. The Married Women's Home Protection Act, being chapter 4, Statutes of Alberta, 1915, is hereby repealed.

9. This Act will not apply to any disposition of property already provided for by agreement in writing.

Tenancy by the Courtesy.

Tenancy by the Courtesy is the use by a husband of the lands of his wife during marriage only if there is no issue of the marriage, if issue, the use for life. By an Act passed in England in 1870 this courtesy did not extend to lands acquired by a wife with her own earnings. This Act was in force in the Territories until 1880, when the Dominion Parliament passed an Act for the Territories extending the exemp-

tion of a married woman's property from the control of her husband. In 1886 Tenancy by the Courtesy for the Territories was abolished altogether.

There is no Tenancy by the Courtesy in Alberta. (S. A. cap. 19, sec. 6.)

CHAPTER IV.

PROPERTY.

An unmarried woman or widow has the same right to acquire, hold and dispose of property as a man except that she is debarred from homesteading or preempting unless she is the sole head of a family.

Personal Property.

A married woman shall in respect of personal property be under no disabilities whatsoever heretofore existing by reason of her coverture, or otherwise, but shall in respect of the same have all the rights and be subject to all the liabilities of a *feme sole*. (C. O. 1911, cap. 47, sec. 1, No. 20 of 1890.)

Real Estate.

A married woman shall, in respect of land acquired by her on or after first day of January, 1887, have all the rights and be subject to all liabilities of a *feme sole*, and may in all respects deal with the land as if she were unmarried. (Cap. 19, sec. 10, Alberta Statutes, 1906.)

Property Acquired by Intestacy.

(See chapter in Intestacy.)

Interest in Husband's Estate.

(See chapter on Dower and Married Woman's Relief Act.)

Sec. 11. If a wife has left her husband and has lived in

adultery after leaving him, she shall take no part in the land of her husband. (Intestate Succession Act, 1920, sec. 3 (c).)

Sec. 12. If a husband left his wife, and has lived in adultery after leaving her, he shall take no part in her land. (Cap. 19, Alberta Statutes, 1906; Intestate Succession Act, 1920, sec. 3 (e).)

Property of Aliens.

Real and personal property of every description may be acquired, owned and disposed of by an alien as if he were a British subject; but rights in such property does not qualify for any municipal, federal or other franchise, or entitle an alien to any right or privilege as a British subject other than the rights and privileges expressly given to him in such property. (S. of Canada, cap. 44, 1914.)

Alimony.

Sec. 21. The court shall have jurisdiction to grant alimony to any wife who would be entitled to alimony by the law of England, or to any wife who would by the law of England be entitled to a divorce and to alimony as incident thereto, or to any wife whose husband lives separate from her without sufficient cause and under circumstances which would entitle her, by the law of England, to a decree for resitution of conjugal rights; and alimony when granted shall continue until further order of the court.

(2) In any action for alimony the court shall have power to grant interim alimony and disbursements and may whenever such a course appears to it to be proper, and either before or after judgment, grant injunction for such time and upon such terms as may be just to prevent any apprehended disposition of his property, either real or personal or both, by the defendant therein. (1917, c. 3, sec. 16.)

Sec. 22. An order or judgment for alimony may be registered in any land titles office and the registration shall, so long as the order or judgment registered remains in force, bind the estate and interest of every description which the defendant has in lands in the land titles district where the registration is made, and operate thereon in the same manner, and with the same effect, as the registration of a charge by the defendant of a life annuity on his lands. (1917, c. 3, sec. 17; sections 21, 22, cap. 3, S. A., 1919.)

Succession Duties.

Succession Duties Act of 1914 with Amendments to 1921.

"The Succession Duties Act" does not apply as respects the payment of succession duties.--(1) To property passing under a will, intestacy, or otherwise, when the net value does not exceed \$5,000; nor (2) To property passing in the manner aforesaid, to or for the use of a resident or residents of the Province, being the grandfather, grandmother, father, mother, husband, wife, child, son-in-law or daughter-in-law of the deceased, where the net value of the property of the deceased does not exceed \$10,000. (Sec. 5.)

The duties in estates of greater value than \$10,000, passed to the above named persons varies from $\frac{1}{2}$ to 10 per cent.

To the above named person residing out of the Province from $\frac{1}{2}$ per cent. to 11 per cent. according to value of estate from \$5,000 to \$2,000,000.

To any other lineal ancestor or lineal descendant the duties vary from 5 to 14 per cent. according to value of estate to any other person or beneficiary from 10 to 20 per cent. according to value of estate.

The property of a deceased soldier up to \$25,000 is exempt from duty if it passes to those mentioned in subsection 2 and including brother or sister and their descendants.

Also property bequeathed for religious, charitable or educational purposes to be carried out in Alberta not exceeding in value \$2,000 for any one purpose.

CHAPTER V.

THE MARRIED WOMAN'S RELIEF ACT.

(S. A. cap. 18, 1910, as amended.)

Does not give a widow a right in her husband's estate, but by inference admits that she has a right in granting her the privilege under certain circumstances of applying for relief to the Supreme Court. This Act was passed in response to petitions for dower from the Local Councils of Women of Alberta, and the Women's Christian Temperance Union.

Sec. 2 of the Act reads: "The widow of a man who has hitherto died or who hereafter dies leaving a will by the terms of which his said widow would in the opinion of the judge before whom the application is made receive less than if he had died intestate may apply to the Supreme Court for relief."

Sec. 8. On any such application the Court may make such allowance to the applicant out of the estate of her husband disposed of by will as may be just and equitable in the circumstances.

Sec. 9. Any such allowance may be by way of an amount payable annually or otherwise, or if a lump sum to be paid or if certain property to be conveyed or assigned either absolutely or for life or for a term of years to the applicant, or for her use as the Court may see fit.

Sec. 10. Repealed.

Sec. 12. Repealed and the following substituted:

"Sec. 12. If the application be made after the expiration of six months from the death of the husband, the allowance, if any, shall be made so as to affect only such beneficiaries under the will as are interested in such portions of the estate as is at the date of the application remains unadministered in the hands of the executors or undistributed in the hands of the trustees under the will."

The following order in council was made January 20, 1921:

"It shall be the duty of the person applying for Probate or Letters of Administration with will annexed of the estate of any person leaving him surviving a widow resident within the Province, where such widow entitled to make application for relief under the Married Women's Relief Act, to satisfy the District Court Judge before such letters do issue that such married woman is fully aware of her rights under the said Act, and before Letters be issued the Judge may direct that a copy of the said Act be forwarded by registered post to such married woman, and may delay the issue of Probate and Letters of Administration until such time as in the opinion of the Judge such married woman will have in due course become informed of her rights under the said Act."

CHAPTER VI.

WILLS.

No person under twenty-one years of age can make a valid will.

No imbecile, insane or interdicted person can make a valid will.

The testator must be of sound mind.

All wills must be in writing. By "writing" is meant either print, handwriting, typewriting, etc. The word is used to express that a will cannot be oral.

Two or more persons cannot make a will by one and the same act.

A married woman is as free as a man to dispose of her property by will.

Subsequent wills which do not revoke the preceding one in an express manner, annul only such disposition therein as are inconsistent with or contrary to those contained in the subsequent will.

Marriage revokes a will. (R. S. of Canada. Chap. 50, sec. 33.)

An heir accepting inheritance makes himself liable for his share of debts due by the estate. The taking into his possession as heir by an heir of anything belonging to the estate makes an acceptance.

A holograph will, which is a will written by the testator and signed by himself, but which has no attesting witness to his signature, is not valid in Alberta.

The English Form of Will/Valid.

S. 1078. Testamentary form is not necessary to constitute a valid will provided that the document is executed in accordance with the provisions of the English law, but the intention of the deceased that the document shall operate after his death must be clear.

S. 1082. Every will must be in writing and be signed by or on behalf of the testator and such signature must be made or acknowledged in the presence of two witnesses at one time except, that any soldier on active military service or marine

being at sea may dispose of his personal estate without writing.

S. 1083. There are no restrictions as to materials upon which a will may be written, a will may be made or attested in pencil as well as in ink, though pencil alterations are *prima facie* deliberative. A printed or lithograph form may be used or part of such.

S. 1085. A mark or initials are sufficient if intended to represent a signature.

S. 1087. A will may be signed on behalf of the testator, but such signature must be made in his presence and on his behalf.

S. 1088. Must be signed at, or after, or following, or under, or beside, or opposite the end of the will. No signature is operative, however, to give effect to any disposition which is underneath or which follows it or to any disposition or direction inserted after the signature has been made.

S. 1095. The witnesses must attest and subscribe the will in the presence of the testator.

S. 1102. Any beneficial devise, gift, legacy, estate to the attesting witness or husband or wife of such person, or any person claiming under such will is null and void by the act of attestation.

S. 1114. Alterations made in a will after it has been signed may be validated by a due acknowledgment of his signature subsequently made by the testator.

S. 1117. Marriage revokes a will.

S. 1138. Cancelling is not now one of the modes of revocation. (English Law, Halsbury, vol. 28.)

Estate tail abolished. (S. A. 1906, cap. 19, sec. 9.)

Sec. 15. Any soldier being in actual military service or marine or seaman being at sea may notwithstanding he is not

of the full age of twenty-one years dispose of his personal property in the manner in which he might have under the provisions of the law of England as it stood on the 15th of July, 1870. (Imp. 7 Will. IV. and 1 Viet. c. 26, s. 11.)

(2) Any soldier, seaman or mariner in actual military or naval service may dispose of his real and personal property by a will signed by himself which will need not be in any particular form nor shall it require attesting witness or witnesses.

(3) This section shall be deemed to have been in force from and after August 1st, 1914. (S. A., cap. 19, 1906. as amended 1917, cap. 3, sec. 39.)

CHAPTER VII.

INTESTACY.

Devolution of Estates.

An intestate estate is the estate of a person who has died and not left a will to govern its distribution.

An Act was passed in 1915 vesting in His Majesty the property of any one dying intestate without leaving any next-of-kin, or other person entitled thereto by the law of Alberta. Section 2 of the Act provides for the Lieutenant Governor in Council transferring or restoring the same to any one who had a legal or moral claim upon the person to whom the property belonged, or for carrying into effect any disposition thereof which such person may have contemplated. (Statutes of Alberta, cap. 5, 1915.)

31. As to succession to property an infant adopted in accordance with the provisions of this Act shall, in case of intestacy, take the same share of property of the parent by

adoption that he would take if born to such parent in lawful wedlock, and he shall stand in regard to the legal descendants but to no other of the kindred of such parent in the same position as if born to such parent in lawful wedlock.

32. If a person adopted dies intestate his property, acquired by himself or by gift or inheritance from his parent by adoption or from the kindred of such parent, shall be distributed among the persons who would have been his kindred if he had been born to such parent in lawful wedlock; and property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place.

(2) No person shall by being adopted lose his right to inherit from natural parents or kindred.

33. Any child, adopted elsewhere than in Alberta, and the adopted parents of such child shall, in the case of intestacy, have the same rights in respect of the property of each other in Alberta, that they would have if such property were situated in the place of the said adoption. (Cap. 13, 1913. 2nd Session.)

A man shall have the same rights in the land of his deceased wife as she has in his personal property. (Statutes of Alberta, 1906, cap. 19, sec. 6.)

Land in the Province shall go to the personal representatives of the deceased owner thereof and shall be dealt with and distributed as personal estate. (Statutes of Alberta, 1906, cap. 19, sec. 2.)

Intestate Succession Act, April 10th, 1920.

2. In this Act, save where the context forbids—

(a) "Intestate" means any person dying intestate, either wholly or as to part of his estate;

(b) "Property" means property distributable by the executor or administrator of a person dying intestate with regard thereto, whether such property be all of his property or not, and includes lands which shall go to the personal representative of the deceased owner thereof and shall be dealt with and distributed as personal estate;

(c) "Is living" or "are living" means is or are alive at the date of the death of the intestate or subsequent thereto.

(d) "Child" includes a posthumous child.

3. If an intestate dies leaving a husband or wife (as the case may be) then—

(a) If two or more children of the intestate are living, one equal third part of the property shall be distributed to the husband or wife;

(b) If one child only is living, one half of the property shall be distributed to the husband or wife;

(c) If no child is living, all the property shall be distributed to the husband or wife;

(d) If a wife has left her husband and is living in adultery at the time of her husband's death or has at any time lived in adultery with another man, and such adultery has not been condoned, no part of her husband's property shall be distributed to such wife;

(e) If a husband has left his wife and is living in adultery at the time of his wife's death or has at any time lived in adultery with another woman, and such adultery has not been condoned, no part of his wife's property shall be distributed to such husband.

(2) Where any issue of a child is living, the property shall be distributed to the husband or wife as if such child were living at the date of the death of the intestate.

4. If an intestate dies leaving issue then, subject to the

rights of a surviving husband or wife, the property shall be distributed among such issue *per stirpes*, and so that no descendant of living issue of the intestate shall take any share of the property.

5. All advances by portion made by a person who dies wholly intestate shall be brought into hotchpot in the distribution of the property.

6. If an intestate dies leaving no husband or wife or issue then the property shall be distributed to the father and the mother of the intestate, if then living, in equal shares, and if either of them is dead, the whole property shall be distributed to the other.

7. (a) If an intestate dies leaving no husband, wife, issue, father or mother, but leaving one or more brothers or sisters, either of the whole or of the half blood, the property shall be distributed to such brother or sister or to such brothers or sisters in equal shares.

(b) If the intestate also leaves a child or children of a deceased brother or sister, such child or children shall take by representation the share his or their parent would take if such parent were alive at the date of the death of the intestate.

8. If an intestate dies leaving no husband, wife, issue, father, mother, brother or sister, the property shall be distributed in equal shares to the persons surviving him, who are next in degree of kindred to him.

(2) Such degrees of kindred shall be reckoned according to the civil law, both upwards to the common ancestor and downwards to the issue, each generation counting for a degree.

(3) No distinction shall be made between persons of the whole blood and persons of the half blood.

9. If an illegitimate intestate dies leaving a husband or

wife or any issue, his property shall be distributed to the person or persons who would be entitled to the property if the intestate were not illegitimate.

(2) If an illegitimate intestate dies without issue and without husband or wife, his property shall be distributed to his mother.

(3) If the parents of a child born out of wedlock afterwards intermarry, such child shall be thereby legitimised.

(4) Illegitimate children shall be entitled to take property from or through their mother as if they were legitimate.

10. Any residue of the property of a deceased person not expressly disposed of by his will, shall vest in his executor or executors as trustee or trustees for the person or persons entitled under this Act to property distributable by an executor unless it appears by the will or any codicil thereto that the said executor or executors were intended to take beneficially.

11. Where any person being a child or other issue of a testator to whom any real or personal estate is devised or bequeathed for any estate or interest not determinable at or before the death of such person dies in the lifetime of the testator, and any issue of any such person is living at the time of the death of the testator, such devise or bequest shall not lapse, but shall take effect as if the death of such person had happened immediately after the death of the testator, unless a contrary intention appears by the will.

12. This Act shall apply only to the distribution of the property of persons dying after the enactment thereof.

Schedule of Repealed Enactments.

1. An Ordinance—respecting the Devolution of Estates (Chapter 13 of Ordinances, 1901) in its entirety.

2. An Act respecting the Transfer and Descent of Land, being chapter 19 of the Statutes of Alberta, 1906, sections 2, 11, 12, 13 and 14.

The Intestate Succession Act does not come into force until June 1st, 1921, but with the exception of sections 6 and 7 (a) all the other sections are covered until that date by the Ordinance of 1901 and chapter 19 of the Statutes of Alberta, 1906.

CHAPTER VIII.

GUARDIANS, TRUSTEES AND ADMINISTRATORS.

A woman may be a guardian, trustee and administrator with the same legal rights and liabilities as a man.

For duties and liabilities see C. O. 1915, cap. 119.

For the rights of parental guardianship see chapter on "Equal Parental Rights."

With the exception that a married mother's consent (if living) with that of the father's (if living) was necessary for the adoption of a child (S. A. 1913, cap. 13, sec. 29,) a married mother had no legal right to her child during the father's life time. (The Court, however, could give her specified privileges under certain circumstances.)

In 1916 the Alberta Legislature made the mother's consent as well as the father's necessary to the marriage of a minor, under eighteen years old. In 1920 the Alberta Government passed an Act to provide for equal parental rights by amendments to the Infants Act and the Devolution of Estates Act. This Act made the mother co-guardian with the father with equal authority.

CHAPTER IX.

EQUAL PARENTAL RIGHTS.

An Act to amend an Act respecting Infants, and to provide for equal Parental Rights; March 31st, 1920.

By amendments to the Infants Act of 1913 and the Intestate Succession Act the Alberta Government has given to the mothers of Alberta absolute equality with the father in the custody, control, education and guardianship of their minor children.

Every section in the Infants Act that referred to the father only has been amended to include the mother.

That section from the English Act that permitted the father to appoint a guardian for an unborn child has been repealed, as has the section that excluded a mother who had been convicted of adultery from access to her child.

The new Intestate Succession Act of 1920 gives the mother an equal share with the father in the intestate estate of a son or daughter predeceased without wife or husband or issue.

An amendment in 1916 to the Marriage Ordinance (C. O. cap. 46) made the consent of both mother and father necessary to the marriage of a minor under 18 years of age, consent of one parent either father or mother necessary to the marriage of a minor over 18 years of age and under 21 years of age except where such minor is living apart from her parents and earning his or her own livelihood no consent is necessary.

The consent of the mother as well as that of the father is necessary before an order for adoption shall be made. (Infants Act 1913, cap. 13.)

In the case where there are two guardians of a child, pro-

vision is made in the case of a disagreement for an appeal to the court. (Infants Act, sec. 25 (5).)

CHAPTER X.

MOTHERS' PENSIONS

Mothers' Allowance Act, 1919

Previous to the date of the passing of this Act a grant of money was made by the Alberta Government to provide a fund for the relief of needy mothers, the amount of relief granted to be dependent upon the circumstances and need of the mother.

The importance of this work soon became apparent and necessitated further legislation and prescribed organization. To accomplish this, the Mothers' Allowance Act was passed. The Act provides for the administration of the Act, the persons qualified to receive assistance, the appointment and duties of inspectors and the responsibility of municipalities.

The inspector appointed to receive applications for assistance shall investigate each case, and report to the Superintendent, who is the Provincial Superintendent of the Department of Neglected and Dependent Children. The superintendent, if satisfied that the case is one coming under the provisions of the Act, may make recommendations to the Attorney General as to the amount of assistance that should be granted. When the recommendations are approved of by the Attorney General the woman may be paid out of the moneys appropriated by the Legislature for that purpose, the sum or sums recommended.

The Government is empowered to recover from the muni-

municipality in which the mother resides 50 per cent. of the money expended by the Government.

Sec. 4. Any woman who is a widow (or the wife of a person committed to the Hospital for Insane under The Insanity Act, and actually an inmate thereof) and who, having in her custody a child or children under the age of fifteen years in the case of boys and sixteen years in the case of girls, is unable to take proper care of such child or children may, by herself or through any person on her behalf, apply to an inspector of the city or town of which she is a resident for assistance under this Act.

This section was amended in 1920 restricting the allowance to widows and wives of insane persons resident in the Province at the time of the passing of the Act, April 17th, 1919. and to widows whose husbands were resident at the time of their death and to wives whose husbands were residents at the time of entering a hospital for the insane.

Sec. 12. For the purposes of this Act a woman shall be deemed a resident of the municipality where she lives therein and has habitually lived therein for a period of one year last past, and in case of dispute as to residence the Superintendent shall decide, and his decision shall be final.

Sub-sec. (2) A woman, having been a resident of any municipality shall not be deemed to have ceased to be a resident thereof during such times as she shall remain in the Province unless and until she shall have become a resident of some other municipality under the provisions of the first subsection of this section.

Sec. 13. The council of any city or town may appoint any person or any association to inform and advise any inspector.

Sec. 14 The Lieutenant Governor in Council may make such rules and regulations as may be deemed necessary.

CHAPTER XI.

CHILDREN BORN OUT OF LAWFUL WEDLOCK.

The subsequent marriage of the parents of a child born out of wedlock legitimizes such child. (S. A. 1916, cap. 3 also Intestate Succession Act, sec. 9, 1920.)

In registering the birth of an illegitimate child, it shall not be lawful for the name of any person to be entered as the father unless at the joint request of the mother and the person acknowledging himself to be the father. (S. A. 1916, cap. 22, sec. 17.)

Sec. 1. Any person who furnishes food, clothing, lodging or other necessities to any child born out of lawful wedlock, may maintain an action for the value thereof against the father of the child, if the child was a minor at the time the necessities were furnished, and was not then residing with his or her reputed father and maintained by him as a member of his family. (Passed in 1903, 2nd session. C. O. 1915, cap. 118, sec. 1.)

The above Ordinance is of little help to a poor unmarried girl struggling to support her child, because section three (3) of the Act provides that no action shall be sustained unless the mother while pregnant, or within six months after the birth of her baby, did make an affidavit before a Justice of the Peace, that the person charged was the father of the child, nor unless she had deposited the affidavit within the time stated with the clerk of the Supreme Court.

Sec. 5. This Ordinance shall not take away or abridge any right of action or remedy which, without this Ordinance,

might have been maintained against the father of an illegitimate child. (C. O. 1915, cap. 118.)

Illegitimate children shall inherit from and through the mother as if legitimate.

The mother of an illegitimate child, who dies intestate without issue, is the legal heir. (S. A. 1906, cap. 19, secs. 13 and 14; also Intestate Succession Act, 1920, sec. 9.)

If a person born out of lawful wedlock dies intestate leaving husband or wife or any issue his property shall be distributed to the person or persons who would be entitled to the property of the intestate were he legitimate. (Intestate Succession Act, 1920.)

For support of illegitimate children see C. Code, sec. 242b. (1913, c. 13.)

Evidence that a man has in any way recognized his children as being his children shall be *prima facie* evidence that they are his legitimate children.

There is no distinction in the legal position of a person born out of lawful wedlock and another person except in respect of the recognition of relationships and the rights and obligations connected therewith. (Hals., vol. 2, 739.)

From his mother he acquires a domicile. (Hals., vol. 2, 742.)

Has no surname by inheritance but may acquire one by reputation. (Hals., vol. 2, 741.)

The mother, as long as she is unmarried or a widow, is bound to maintain the child until 16 years of age, or if a female, marries. (Hals., vol. 2, 748.)

The husband of any woman is bound to maintain her illegitimate children born before marriage until the age of sixteen years or the mother dies. (English Poor Law Amendment Act, 1834. Eversley on Domestic Relations, 3rd Edition, page 536.)

CHAPTER XII.

FRANCHISE.**FEDERAL.****Dominion Election Act, 1920.**

Sec. 29. (1) Save as in this Act otherwise provided, every person, male or female, shall be qualified to vote at the election of a member, who, not being an Indian ordinarily resident on any Indian Reservation—

(a) is a British subject by birth or naturalization; and

(b) is of the full age of 21 years; and,

(c) has ordinarily resided in Canada for at least twelve months and in the Electoral District wherein such person seeks to vote for at least two months immediately preceding the issue of the writ of election.

(d) Provided however that any Indian who has served in the Naval, Military or Air Forces of Canada in the late war shall be qualified to vote, unless such Indian is otherwise disqualified under paragraphs (a), (b) and (c) of this section.

(2) For the purpose of this Act, the allegiance or nationality of a person, as it was at the birth of such person, shall be deemed incapable of being changed, or of having been changed, merely by reason or in consequence of marriage or change of allegiance or naturalization of any other person or otherwise than by personal naturalization of such first mentioned person. Provided, however, that this subsection shall not apply to any person born on the continent of North America, nor to any person who in person applies to and obtains from any judge having jurisdiction in naturalization proceedings, a certificate under the hand of such judge.

The certificate given states that the person named in the certificate is a person naturalized as a British subject by operation of law.

Personal registration is necessary to secure name on voters' list except in case of sickness, etc., another may register for another by answering certain questions in form 13 of this Act.

Sec. 38. Except as in this Act otherwise provided any British subject male or female who is of the full age of 21 years may be a candidate at a Dominion Election.

PROVINCIAL.

The Alberta Election Act.

Residence in Alberta for at least twelve months and three months' residence in the Electoral District where the voter seeks to vote is one of the necessary qualifications of a voter.

No property qualification necessary.

Since the passing of the Equal Suffrage Statutory Law Amendments Act in April, 1916, women in Alberta are upon an absolute equality with, and have the same rights and privileges and are subject to the same penalties and disability as men in the following Ordinances and Charters: The Alberta Election Act, 1909; the Controverted Elections Act, 1907; The Town Act, 1911-1912; The Village Act, 1913; The Rural Municipality Act, 1911-1912; The Controverted Municipal Elections Act, 1911-1912; The Direct Legislation Act, 1912; The Municipal Cooperative Hail Insurance Act, 1915; An Act respecting the Legislative Assembly of Alberta 1909; the Local Improvement Act, 1907; the Agricultural Societies Ordinance, Consolidated Ordinances of the North-West Territories, 1898; the School Ordinance, Consolidated Ordinances of the North West Territories, 1898; the Lethbridge Charter, 1913; an

Ordinance to incorporate the City of Calgary, Ordinances of the North-West Territories, 1893; the Edmonton Charter, 1913; the Medicine Hat Charter, 1906, and amendments thereto; an Ordinance to incorporate the Town of Cardston, Ordinances of the North-West Territories, 1901; an Ordinance to incorporate the Town of Red Deer, Ordinances of the North-West Territories, 1901; an Act to incorporate the Village of Gull Lake, Alberta, 1913; an Act to incorporate the City of Wetaskiwin, 1906; an Act to incorporate the Village of Wabamun Beach, 1913 (Second Session); an Act respecting the Assessment in the Village of Loughheed, 1913; an Act respecting the Assessment and Collection of Taxes in the Town of Stettler, 1913; an Act to incorporate the Village of Lake View, 1913 (Second Session), and in amendments to these Acts. Acts.

Rural Municipal Act.

(Name Changed to "Municipal District Act, 1918.")

Although the Equal Suffrage Act of 1916, section 2 reads:

"Notwithstanding any provision therein contained, women shall be upon an absolute equality with and have the same rights and privileges and be subject to the same penalties and disqualifications as men" in certain named Acts the Rural Municipality Act, being among the number named; The Municipal District Act of 1919, section 92 reads: "The persons eligible for election as Councilors shall be male resident electors of the municipality who are of the full age of twenty-one years, who can read and write and are British subjects." (1919, c. 52, s. 22.)

By an amendment in 1918 the names of the wife, husband, son or daughter of any person whose name is on the voters' list for the purpose of election of Councillors, but not otherwise unless qualified apart from the provisions of this para-

graph, shall be deemed to be an elector, provided such wife, husband, son or daughter, as the case may be, is a resident of the municipal district and of the full age of twenty-one years and provided his or her name has been entered in such list in the provision of clause 8, section 86 of this Act. Provided, however, that in the event of a by-law being passed by a municipality under the provisions of subsection 2 of this section, the ratepayer has paid all the taxes due by him or her. (1918, cap. 4, sec. 43.)

An amendment in 1919 made it necessary for the persons named in the preceding paragraph to make application to have his or her name entered on the addition to the voters' list. Applications to be made from November 1st to December 31st, both inclusive in each year.

School Franchise.

The School Ordinance amended 1918 to include the husband, wife, son, daughter or sister of any resident ratepayer who is of the full age of twenty-one years and resides in the same house as the resident ratepayer.

CHAPTER XIII.

NATURALIZATION.

Naturalization Acts of 1914 and 1920.

The Imperial Naturalization Act as assented to by the Dominion Parliament, cap. 44, 1914, came into force in Canada, June 1st, 1915. The two leading features of the Act are the world-wide British Naturalization and the five years necessary residence of aliens. This Act was amended in the 2nd session of 1914 and repealed and replaced by an Act in 1919.

The Naturalization Act of 1920 repealed the Act of 1919 and revised the Act of 1914 with the amendments of the 2nd session and further amended the Act of 1914.

Section 2 repealed section 7 and substituted two new sections 7 and 7a. Section 7 with its five subsections deals with the revocation of a certificate of naturalization. 7a deals with the effect of the revocation upon the status of wife and minor children. Unless otherwise ordered by Governor in Council the nationality of the wife and minor children of the person whose certificate is revoked shall not be affected by the revocation and they shall remain British subjects. Provided that—

Sub-sec. 1. (a) it shall be lawful for the wife of any such person within six months after the date of the revocation to make a declaration of alienage, and thereupon she and any minor children of her husband and herself shall cease to be British subjects and shall become aliens; and,

(b) the Governor in Council shall not make any such order as aforesaid in the case of a wife who was at birth a British subject, unless he is satisfied upon the report of the Secretary of State of Canada that if she had held a certificate of naturalization in her own right the certificate could properly have been revoked under this Act.

Sub-sec. (2) The provisions of this section shall, as respects persons affected thereby, have effect in substitution for any other provision of the Act as to the effect upon the wife and children of any person where the person ceases to be a British subject, and such other provisions shall accordingly not apply in any such case.

Natural-Born British Subjects.

Sec. 1. The following persons shall be deemed to be natural-born British subjects.

(a) Any person born within His Majesty's Dominions and allegiance; and,

(b) Any person born out of His Majesty's Dominions, whose father was a British subject at the time of that person's birth and either was born within His Majesty's allegiance or was a person to whom a certificate of naturalization has been granted, or had become a British subject by reason of any annexation of territory, or was at the time of that person's birth in the service of the Crown.

(c) Any person born in a British ship whether in foreign territorial waters or not.

Provided that the child of a British subject, whether that child was born before or after the passing of this Act, shall be deemed to have been born within His Majesty's allegiance if born in a place where by treaty, capitulation, grant, usage, sufferance, or other lawful means His Majesty exercises jurisdiction over British subjects.

Sub-sec. 2. A person born on board a foreign ship shall not be deemed to be a British subject by reason only that the ship was in British territorial waters at the time of his birth.

Naturalization of Aliens.

Sec. 2. The Secretary of State of Canada may grant a Certificate of Naturalization to an alien who makes an application for the purpose. The qualifications necessary are:

Residence within His Majesty's Dominions, for a period of not less than five years or service under the Crown for the same period within the last eight years before the application; residence in Canada for not less than one year immediately preceding the application and previous residence either in Canada or in some part of His Majesty's Dominions for a period of four years within the last eight years before the application; good character; an adequate knowledge of the

English or French language; an intention, if a Certificate of Naturalization is granted, either to reside in His Majesty's Dominions or to enter or continue in the service of the Crown.

No Certificate of Naturalization shall, before the expiration of ten years after the termination of the war, be granted in Canada to any subject of a country which at the time since August 4th, 1914, was at war with His Majesty: but this provision shall not apply to a person who—

(a) having served in His Majesty's forces or in the forces of His Majesty's Allies or of any country acting in naval and military co-operation with His Majesty was not discharged from such service by reason of his enemy nationality, sympathy, or associations; or

(b) is a member of a race or community known to be opposed to the enemy government; or

(c) was at birth a British subject; or

(d) was domiciled and had continuously resided in Canada for a period of at least ten years immediately preceding July 7th, 1919, and who establishes to the satisfaction of the Secretary of State of Canada that he has always during his residence in Canada conducted himself as a good and loyal citizen and that his allegiance to His Majesty will not be affected by sympathy or association with the enemy state of which he was formerly a subject.

A person to whom a Certificate of Naturalization has been granted has to all intents and purposes the status of a natural-born British subject.

The requirements for a unmarried alien woman are the same as those for a man.

Sec. 33 (d): The expression "disability" means the status of being a married woman, or a minor; lunatic. or idiot. For exception see section on Status of Married Women.

National Status of Married Woman and infant Children.

Sec. 10. The wife of a British subject shall be deemed to be a British subject, and the wife of an alien shall be deemed to be an alien. Provided that when a man ceases during continuance of his marriage to be a British subject, it shall be lawful for his wife to make a declaration that she desires to retain British nationality and thereupon she shall be deemed a British subject. (1914.)

At the end of preceding section (10) shall be added the words:

"And provided that when an alien is subject of a State at war with His Majesty it shall be lawful for his wife, if she was at birth a British subject, to make a declaration that she desires to resume her British nationality and thereupon the Secretary of State of Canada, if he is satisfied that it is desirable that she be permitted to do so, may grant her a Certificate of Naturalization." (Sec. 3, sub-sec. 5, 1920.) -

Sec. 11 A woman who, having been a British subject, has by or in consequence of her marriage become an alien, shall not, by reason only of the death of her husband, or the dissolution of her marriage, cease to be an alien, and a woman who, having been an alien, had by or in consequence of her marriage become a British subject, shall not by reason only of the death of her husband, or the dissolution of her marriage, cease to be a British subject.

By an amendment to sub-sec. 5 of sec. 2 of the Act a woman who was a British subject prior to her marriage to an alien and whose husband has died or whose marriage has been dissolved, when seeking to become again a British subject, is not required to comply with the regulation as to residence.

Sec. 12. When a person being a British subject ceases

to be a British subject, whether by declaration or otherwise, every child of that person, being a minor, shall thereupon cease to be a British subject, unless that child or that person ceasing to be a British subject, does not become by the law of any other country naturalized in that country.

Provided that where a widow who is a British subject marries an alien, any child of hers by her former husband shall not, by reason only of her marriage, cease to be a British subject whether he is residing outside His Majesty's Dominions or not.

Sub-sec. 2. Any child who has ceased to be a British subject may within one year after attaining his majority make a declaration that he wishes to resume British nationality, and shall thereupon again become a British subject.

Minor children of an alien become naturalized by their names and ages being endorsed on the Certificate of Naturalization of their parent, any child not so named remains an alien, but the Secretary of State may in any special case grant a Certificate of Naturalization to any minor.

Any minor becoming naturalized may within one year after attaining his majority make a declaration of alienage and shall thereupon cease to be a British subject.

Status of Aliens.

Sec. 17. Real and personal property of every description may be taken, acquired, held and disposed of by an alien in the same manner in all respects as by a natural-born British subject; and a title to real and personal property of every description may be derived through and from or in succession to an alien in the same manner in all respects as through, from or in succession to a natural-born British subject:

Provided that this section shall not operate so as to—

1. Qualify an alien for any office or for any municipal, parliamentary, or other franchise; or
2. Qualify an alien to be an owner of a British ship; or
3. Entitle an alien to any right or privilege as a British subject, except such rights and privileges in respect to property as are hereby expressly given to him; or
4. Affect an estate or interest in real or personal property to which any person has or may become entitled either mediately or immediately, in possession or expectancy, in pursuance of any disposition made before July 4th, 1883, or in pursuance of any devolution by law on the death of any person dying before that date.

CHAPTER XIV.

FACTORY ACT.

Passed 1917, Amended 1918, 1919, 1920.

Sec. 16. The provisions of this Act shall apply to shops, offices and office buildings in cities and towns having a population exceeding five thousand and to all factories in the Province.

Sections Affecting Women.

Sec. 17. Male or female inspectors may be appointed.

Sec. 2. (o) "Woman" shall mean a female person of 15 years of age and upwards.

Sec. 24. (3) No woman, except by special permission of an inspector in writing, shall be employed in any factory, shop, office or office building between the hours of 11 p.m. and 7 a.m. of the following day. (1918.)

Sec. 25. In any shop in which women are employed the employer shall at all times provide and keep therein a sufficient and suitable chair or seat for the use of every such woman employee permanently employed, and shall permit her to use such chair or seat when not necessarily engaged in the work or duty for which she is employed.

Sec. 26. Regulates the time of day, the number of hours per day that an employee may work.

Sec. 26(a) 1920 constitutes a minimum wage board, called "Advisory Committee."

Sec. 29. Where a woman is employed in a factory or shop in which there is a contravention of any of the provisions of sections 24 to 27 inclusive, or of section 28, or of any permission given under section 25, or of any regulations made under section 28, such woman shall be deemed to be unlawfully employed and so that her health is likely to be injured.

Sec. 30. Separate closets must be provided for male and female employees, one closet for 25 persons, of each sex employed with a clearly printed sign indicating for which sex the closets are provided.

Sec. 36. No public laundry work shall be done in a room used for a sleeping or living room or in a room used for cooking or preparing meals.

Sec. 6. Every shop, building or room in which one or more persons are employed in doing public laundry work by way of trade or for the purpose of gain shall be deemed a factory to which this Act applies.

(2) This section shall not apply to a dwelling in which a female is engaged in doing custom laundry work at her home for a regular family trade.

Sec. 40. Women in a factory shall during working hours, wear their hair rolled or plaited and fastened securely to

their heads or confined in a close fitting cap or net so as to avoid contact with machinery or material handled.

Sec. 41. A woman shall not be allowed to clean such parts of machinery in a factory as is mill-gearing while the same is in motion.

Sec. 57. The parent of any child employed in contravention of this Act unless such employment is without the consent, connivance or wilful default of such parent, shall for each offence incur a penalty of not more than \$50.

Sec. 2. (b) "Child" shall mean a person under the age of fifteen years.

CHAPTER XV.

EXTRACTS FROM THE CRIMINAL CODE.

Chap. 146, R. S. 190, 1919, with amendments, 1920.

The Criminal Code is in force in all parts of the Dominion.

The fact that an offender is ignorant of the law is not an excuse for any offence committed by him.

Sec. 294. The consent of a child under 14 years is no defence to a charge of indecent assault upon either male or female children.

Rape.

Sec. 298 sub-sec. (2) 1915. No one under the age of 14 years can commit this offence.

Sec. 299. Every one who commits rape is guilty of an indictable offence and liable to suffer death, or to imprisonment for life.

Sec. 300. Every one is guilty of an indictable offence and

liable to seven years' imprisonment and to be whipped who attempts to commit rape.

Sec. 301. Every one is guilty of an indictable offence and liable to imprisonment for life and to be whipped, who carnally knows any girl under the age of fourteen years, not being his wife, whether he believes her to be of or above that age or not.

(2) Every one is guilty of an indictable offence and liable to imprisonment for five years who carnally knows any girl of previously chaste character under the age of sixteen and above the age of fourteen, not being his wife and whether he believes her to be above the age of sixteen years or not. No person accused of any offence under this subsection shall be convicted upon the evidence of one witness, unless such witness is corroborated in some material particular by evidence implicating the accused.

Sec. 302. Every one who attempts to have unlawful carnal knowledge of any girl under the age of fourteen years is guilty of an indictable offence and liable to two years' imprisonment, and to be whipped.

Abortion.

Sec. 303. Every one is guilty of an indictable offence and liable to imprisonment for life who, with intent to procure the miscarriage of any woman, whether she is or is not with child, unlawfully administers to her or causes to be taken by her any drug or other noxious thing, or unlawfully uses any instrument or other means whatsoever with the like intent.

Sec. 304. Every woman is guilty of an indictable offence and liable to seven years' imprisonment who, whether with child or not, unlawfully administers to herself or permits to be administered to her any drug or other noxious thing.

or unlawfully uses on herself or permits to be used on her any instrument or other means whatsoever with intent to procure miscarriage.

Sec. 305. Every one is guilty of an indictable offence and liable to imprisonment for life who causes the death of a woman or procures any drug or other noxious thing, or any instrument or thing whatsoever, knowing that the same is intended to be unlawfully used or employed with intent to procure the miscarriage of any woman, whether she is or is not with child.

Sec. 306. Every one is guilty of an indictable offence and liable to imprisonment for life who causes the death of any child which has not become a human being, in such a manner that he would have been guilty of murder if such child had been born.

Sec. 207. Every one is guilty of an indictable offence and liable to two years' imprisonment who knowingly, without lawful justification or excuse—

(c) Offers to sell, advertise, publishes an advertisement of, or has for sale or disposal any means or instructions or any medicine, drug or article intended or represented as a means of preventing conception or of causing abortion or miscarriage; or advertises or publishes an advertisement of any means, instruction, medicine, drug or article for restoring sexual virility or curing venereal disease or diseases of the generative organs.

Neglected in Childbirth and Concealing of Dead Body.

Sec. 271. Every woman is guilty of an indictable offence who with either of the intents hereinafter mentioned, being with child and being about to be delivered, neglects to provide reasonable assistance in her delivery, if the child is permanently injured thereby, or dies, either just before or during.

or shortly after birth, unless she proves that such death or permanent injury was not caused by such neglect, or by any wrongful act to which she was party, and is liable—

(a) If the intent of such neglect be that the child shall not live, to imprisonment for life.

(b) If the intent of such neglect be to conceal the fact of her having had a child, to imprisonment for seven years.

Sec. 272. Every one is guilty of an indictable offence and liable to two years' imprisonment who disposes of the dead body of any child in any manner, with intent to conceal the fact that its mother was delivered of it, whether the child died before or during, or after birth.

Seduction.

Sec. 210. The burden of proof of previous unchastity on the part of the girl or woman under the three next succeeding sections shall be upon the accused. (Passed April 4th, 1900.)

Sec. 211. Every one over the age of eighteen years is guilty of an indictable offence and liable to two years' imprisonment who seduces any girl of previously chaste character of or above the age of sixteen years and under the age of eighteen years. Proof that a girl has on previous occasions had illicit connection with the accused shall not be deemed evidence that she was not of previously chaste character. (1920.)

Sec. 212. Every one, above the age of twenty-one years, is guilty of an indictable offence and liable to two years' imprisonment who, under promise of marriage, seduces and has illicit connection with any unmarried female of previously chaste character, and under twenty-one years of age.

Sec. 213. Every one is guilty of an indictable offence and liable to two years' imprisonment—

(a) who, being a step-parent or foster-parent or guardian seduces or has illicit connection with his stepchild or foster-child or ward (1917);

(b) who seduces or has illicit connection with any girl previously chaste and under the age of twenty-one years who is in his employment, or who, being in a common, but not necessarily similar, employment, with him is, in respect of her employment or work under or in any way subject to his control or direction, or receives her wages or salary directly or indirectly from him. Proof that a girl has on previous occasions had illicit connection with the accused shall not be deemed to be evidence that she was not previously chaste.

Sec. 214. Every one is guilty of an indictable offence and liable to a fine of four hundred dollars, or to one year's imprisonment, who, being the master or other officer or a seaman or other person employed on board of any vessel, while such vessel is in any water within the jurisdiction of the Parliament of Canada, under promise of marriage, or by threats, or by the exercise of his authority, or by solicitation, or the making of gifts or presents, seduces and has illicit connection with any female passenger.

(2) The subsequent intermarriage of the seducer and the seduced is, if pleaded, a good defence to any indictment for any offence against this or either of the two preceding sections, except in the case of a guardian seducing his ward.

Sec. 215. Every one who, being the parent or guardian of any girl or woman, who—

(a) Procures such girl or woman to have carnal connection with any man other than the procurer: or,

(b) Orders, is party to, permits or knowingly receives

the avails of the defilement, seduction or prostitution of such girl or woman—

is guilty of an indictable offence, and liable to fourteen years' imprisonment if such girl or woman is under the age of fourteen years, and if such girl or woman is of or above the age of fourteen years to five years' imprisonment.

Sec. 217. Every one who, being the owner or occupier of any premises, or having, or acting or assisting in the management or control thereof, induces or knowingly suffers any girl under the age of eighteen years to resort to or be in or upon such premises for the purpose of being unlawfully and carnally known by any man, whether such carnal knowledge is intended to be with any particular man, or generally, is guilty of an indictable offence, and is liable—

(a) To ten years' imprisonment if such girl is under the age of fourteen years;

(b) To two years' imprisonment if such girl is of or above the age of fourteen years.

Sec. 218. Every one is guilty of an indictable offence and liable to two years' imprisonment who conspires with any other person by false pretences, or false representation, or other fraudulent means to induce any woman to commit adultery or fornication.

Sec. 219. Every one is guilty of an indictable offence and liable to four years' imprisonment who unlawfully and carnally knows, or attempts to have unlawful carnal knowledge of any female idiot or imbecile, insane or deaf and dumb woman or girl under circumstances which do not amount to rape, but where the offender knew, or had good reason to believe at the time of the offence, that the woman or girl was an idiot, or imbecile, or insane, or deaf and dumb.

Additional Protection for Indian Women, Irrespective of Age.

Sec. 220. Every one is guilty of an indictable offence and liable to a penalty not exceeding one hundred dollars and not less than ten dollars, or six months' imprisonment—

(a) Who being the keeper of any house, tent or wigwam, allows or suffers any unenfranchised Indian woman to be or remain in such house, tent or wigwam knowing or having probable cause for believing that such Indian woman is in or remains in such house, tent or wigwam with the intention of prostituting herself therein; or

(b) Who, being an Indian woman, prostitutes herself therein; or

(c) Who being an unenfranchised Indian woman, keeps, frequents or is found in a disorderly house, tent or wigwam used for any such purpose.

2. Every person who appears, acts or behaves as master or mistress, or as the person who has the care or management of any house, tent or wigwam in which any such Indian woman is or remains for the purpose of prostituting herself therein is deemed to be the keeper thereof, notwithstanding he or she is not in fact the keeper thereof.

Abduction.

Sec. 313. Every one is guilty of an indictable offence and liable to two years' imprisonment who, against her will, takes away or detains any woman of any age and whether married or not, with intent to marry or carnally know such woman or to cause her to be married or carnally known by any other person.

Sec. 314. Every one is guilty of an indictable offence and liable to fourteen years' imprisonment, who with intent to marry or carnally know any woman, or with intent to cause any woman to be married or carnally known by any other

person, such woman having any interest, legal or equitable, present or future, absolute, conditional or contingent, in any real or personal estate, or being presumptive heiress or co-heiress, or presumptive next-of-kin, to any one having such an interest.

(a) From motives of lucre takes away or detains such woman against her will, whatever the age of such woman.

(b) Fraudulently allures, takes away or detains such woman out of the possession and against the will of her father or mother or other person having lawful care or charge of her, such woman being under the age of twenty-one years.

Sub-section 2 of this section bars the person abducting or detaining, from taking any estate or interest, legal or equitable, in the real or personal property of the woman abducted or detained.

Sec. 315. Every one is guilty of an indictable offence and liable to five years' imprisonment who unlawfully takes or causes to be taken any unmarried girl, who is under the age of sixteen years, out of the possession and against the will of her father or mother, or of any other person having the lawful care or charge of her.

2. It is immaterial whether the girl is taken with her own consent or at her own suggestion or not.

3. It is immaterial whether or not the offender believed the girl to be of or above the age of sixteen.

Sec. 294. It is no defence to a charge or indictment for any indecent assault on a young person under the age of fourteen years to prove that he or she consented to the act of indecency.

Procuring.

Sec. 216. Every one is guilty of an indictable offence and shall be liable to ten years' imprisonment and on any

second or subsequent conviction shall also be liable to be whipped in addition to such imprisonment, who—

(a) procures, or attempts to procure or solicits any girl or woman to have unlawful carnal connection within or without Canada, with any other person or persons; or

(b) inveigles or entices any woman or girl not being a common prostitute or of known immoral character to a common bawdy or assignation house for the purpose of illicit intercourse or prostitution; or

(c) knowingly conceals any woman or girl in any common bawdy or assignation house, or

(d) procures or attempts to procure any woman or girl to become, either within or without Canada, a common prostitute; or

(e) procures or attempts to procure any woman or girl to leave her usual place of abode in Canada, such place not being a common bawdy house, with intent that she may become an inmate or frequenter of a common bawdy house within or without Canada; or

(f) on the arrival of any woman or girl in Canada, directs or causes her to be directed, takes or causes her to be taken, to any common bawdy house or house of assignation; or to leave Canada; or

(g) procures any woman or girl to come to Canada, for the purpose of prostitution; or

(h) by threats or intimidation, procures or attempts to procure any woman or girl to have any unlawful carnal connection, either within or without Canada; or

(i) for the purposes of gain, exercises control, direction, or influence over the movements of any woman or girl in such a manner as to show that he is aiding, abetting or compelling her prostitution with any person or generally; or

(j) by false pretence or false representations procures any woman or girl to have any unlawful carnal connection, either within or without Canada; or

(k) applies, administers to, or causes to be taken by any woman or girl any drug, intoxicating liquor, matter or thing with intent to stupify or overpower so as thereby to enable any person to have unlawful carnal connection with such woman or girl; or

(l) being a male person, lives wholly or in part on the earnings of prostitution.

2. Where a male person is proved to live with or to be habitually in the company of a prostitute or prostitutes, and has no visible means of support, or lives in a house of prostitution he shall, unless he can satisfy the court to the contrary be deemed to be living on the earnings of prostitution. Also section 238. sub-section (1.)

Disorderly Houses.

The effort of the Dominion Government to effectually suppress disorderly houses is seen in the amendments to the Criminal Code in 1909, 1910, 1913, 1915, 1917 and 1920.

Sec. 225. A common bawdy house is a house, room, set of rooms or place of any kind kept for purposes of prostitution, or for the practice of acts of indecency or occupied or resorted to by one or more persons for such purposes. (1917.)

Sec. 774. Gives absolute jurisdiction to the magistrate in respect to houses of ill fame.

Sec. 230. Every one guilty of an offence and liable on summary conviction before two justices, to a penalty not exceeding one hundred dollars and to six months' imprisonment with or without labour who prevents or obstructs the entry of an authorized officer to a disorderly house.

Sec. 228. The liable penalty for keeping a disorderly house is one year's imprisonment.

2. Any one who appears, acts and behaves as the keeper, manager, etc., to be considered the keeper. (1913.)

Sec. 288a. Making the landlord guilty, if his premises are used as a disorderly house, and if after conviction of his tenant as keeper, a second offence as to tenancy is committed, the landlord, lessor or agent is to be considered a keeper of a disorderly house. (1913.)

Sec. 229. Every one found without lawful excuse in a disorderly house, liable to a fine of \$100.00, and in default of payment, to two months' imprisonment. (Sec. 299, C. Code. 1913.)

Sec. 229a. An inmate of a common bawdy house is guilty of an indictable offence and liable to a fine of \$100.00 and costs, or in default of payment to imprisonment not exceeding two months or to imprisonment not exceeding twelve months. Any one convicted under sections 228 and 229a three or more times shall be liable to imprisonment not less than three months and not exceeding two years. (1915.)

Sec. 773 deals with summary trials for—

(d) indecent assault on a male child under 14 years and an indecent assault upon a female not amounting to attempted rape; and

(f) with keeping a disorderly house under section 228, or with being an inmate of a common bawdy house under section 229a.

Sec. 781. In any cases summarily tried under paragraphs (c), (d), (e), (f), or (g) of section 773 the magistrate may commit the person charged to imprisonment not to exceed six months or condemn him to pay a fine not exceeding with

costs of case \$200.00, or to both fine an imprisonment not exceeding sum and term. (1913.)

For responsibility for support of wife and children see chapter on Marriage—sections of Criminal Code, 242, 242a, 242b, 242c.

Section 781, as amended by cap. 13, 1913, is amended by adding the following sub-section immediately after sub-section 1:

“(1a) The provisions of section 1035 shall not apply or extend to any person convicted more than twice under said paragraph (f) of section 773 for keeping a common bawdy house, or of keeping a common bawdy house if such offence was committed in any premises with respect to which premises more than two convictions have been made, whether the same person has been convicted as keeper thereof or not, and any such person so convicted shall not in either case be sentenced to less than three months' imprisonment, nor shall any sentence imposed in either of the cases be suspended under the provisions of section 1087 without the concurrence of the counsel acting for the Crown in the prosecution of the offender.” (1920.)

Section 1035 deals with fines in lieu of other punishments on the trial of any offence against sections 211, 213 and 301 as amended in 1920, the trial judge may instruct the jury that if in their view the evidence does not show that the accused is wholly or chiefly to blame for the commission of said offence, they may find a verdict of acquittal.

Sec. 1008. If sentence of death is passed upon a woman she may move in arrest of execution on the ground that she is pregnant.

2. If such motion is made the court shall direct one or more registered medical practitioners to be sworn to examine the woman in some private place, either together or successive.

ly. and to inquire whether she is with child of a quick child or not.

3. If upon the report of any of them it appears to the court that she is so with child, execution shall be arrested until she is delivered of a child, or until it is no longer possible in the course of nature that she should be.

Sec. 1009. Jury of matrons abolished substituted by regulations in section 1008.

CHAPTER XVI.

VENEREAL DISEASE.

Sec. 316a (1) Any person who is suffering from venereal disease in a communicable form, who knowingly or by culpable negligence communicates such venereal disease to any other person shall be guilty of an offence, and shall be liable upon summary conviction to a fine not exceeding \$500.00 or to imprisonment for any term not exceeding six months, or to both fine and imprisonment.

Provided that a person shall not be convicted under this section if he proves that he had reasonable grounds to believe that he was free from venereal disease in a communicable form at the time the alleged offence was committed.

Provided also, that no person shall be convicted of any offence under this section upon the evidence of one witness, unless the evidence of such witness be corroborated in some material particular by evidence implicating the accused.

(2) For the purpose of this section "venereal disease" means syphilis, gonorrhea, or soft chancre. (C. Code, 1919.).

In 1918 the Alberta Government passed The Venereal Disease Prevention Act. In 1919 this Act was amended by

substituting the word "board" for provincial health officer wherever it occurs, and by striking out the word "shall" in the 3rd line of sub-section 4 and substituting "may."

Section 8, subsection 1: By striking out the said subsection and substituting therefor the following:

"8. Every person who, with intention to recommend or suggest the purchase of or to promote the sale of any article as a drug, medicine, appliance or instrument or as part of any treatment for the alleviation or cure of any venereal disease or of any disease or affection of the genito-urinary organs or intended to convey an offer to give or prescribe any form of treatment for any of the aforesaid diseases—

"(a) Publishes or causes or allows to be published in a newspaper or magazine or other periodical publication any notice, advertisement, statement, testimonial, letter or other matter;

"(b) Issues or publishes or causes to be issued or published any book, almanac, pamphlet, fly-sheet, document or other matter;

"(c) Posts up or exhibits in any place so as to be visible to persons being in or passing along any street, highway, railway or public place, any notice, statement, advertisement, testimonial, letter or other matter;

"(d) Distributes, circulates or delivers or sends by post to any person any pamphlet, circular, notice, statement, advertisement, testimonial, letter or other matter—
shall incur a penalty of not more than \$500.00 and in default of immediate payment thereof shall be imprisoned for a period not exceeding twelve months."

Amending section 12.

By adding immediately after clause (l) the following clauses:

"(m) Providing for the procedure relative to arrest, detention, isolation, examination, quarantine, treatment or prevention of infection from any person;

"(n) Providing for the giving under the provisions of this Act to magistrates; executive officers of the board, medical officers of health, or other persons duly appointed under The Public Health Act or this Act to do any act or thing which in the opinion of the board may be in the interest of public health;

"(o) Providing in the case of any person or class of persons as to who shall bear the expense in connection with the carrying out of the provisions of this Act with regard to such person or class of persons;

"(p) Prescribing the functions, duties and jurisdiction of local boards and medical officers of health in cities, towns, villages and municipal districts, under the provisions of this Act;

"(q) Prescribing the duties of the corporation of every city, town, village and municipal district with regard to the supplying of funds for the carrying out of the work of its local board or medical officer of health, under the provisions of this Act;

"(r) Providing for the division of the responsibility for and bearing expense of the carrying out of the provisions of this Act, or regulations by the various health districts or the provincial government."

Sec. 16. Words signifying the masculine shall be taken also to include the feminine.

CHAPTER XVII.

MISCELLANEOUS.

Imprisonment of Women.

Female convicts shall be kept in a separate ward from the male convicts and shall be under the charge of a matron with such and so many female officers as the Minister of Justice orders to be employed. (The Penitentiary Act, R. S. of Canada, c. 147.)

Disqualification of Sex.

A woman may not homestead unless she is the sole head of a family. (Dominion Lands Act, 1908, c. 20.)

A woman may not serve on juries. (C. O. 1911, cap. 228, sec. 1.)

A woman is exempt from militia service. (R. S. of Canada, 1906, cap. 41, sec. 10.)

A Woman Not Permitted to Serve Liquor in a Hotel.

Any hotel licensee who knowingly allows any male under the age of twenty-one years or any female to dispose of any form of intoxication on the premises for which such license is granted shall be liable to all penalties provided for in this section provided that this shall not apply to female licensees or the wife of a licensee. (C. 89, C. O., 1915.)

A woman may not be punished by the Court by whipping. (C. Code, 1900, 957, (4) R. S. of Canada, C. 181, s. 30.)

A married woman has no individual nationality. For exception, see chapter XIII.

Insurance for Wife and Children.

Life Insurance for the benefit of wife, or wife and child-

ren, or any of them, shall be deemed a trust for the benefit of wife, or wife and children, or children, and the money payable under the policy shall not be subject to the control of the husband or his creditors, or form part of his estate; but the insured may by an instrument in writing attached to or endorsed on or identifying the policy by number or otherwise, vary the apportionment previously made among the preferred beneficiaries. (C. O. 1911, cap. 119, sec. 4, 5.)

A woman may insure her life for her own estate, may insure the life of her child, of her husband, or any other person in whom she has a pecuniary interest in the duration of that person's life.

No contract of insurance is valid on the life of a child under one year of age.

When a part or the whole of an insurance is designated to one or to several of the preferred beneficiaries, the amount designated is in the nature of a trust and so long as any object of the trust remains, the money shall not be subject to the control of the assured or of his creditors or form part of his estate except in so far as the assured may by declaration vary the amount designated among the preferred beneficiaries.

"Preferred beneficiaries" means the husband, wife, child, grand-child or mother of the assured.

(The Life Insurance Beneficiaries Act, S. A. cap. 25, 1916.)

By an amendment of section 7 an assured person not twenty-one years of age but over fifteen years of age may from time to time borrow from the insurer on the security of the contract such sums as may be necessary to keep it in force and the same shall be so applied, and on such terms and conditions as may be agreed upon; and the sums so borrowed with such interest as may be agreed on, shall be a first lien on the contract and on all moneys payable thereunder. (S.A. cap. 40, 1917.)

By another amendment a man who is assured may by application to a judge of the Supreme Court, if his wife is living apart from him under circumstances disentitling her to alimony and who is a preferred beneficiary in an insurance on his life, secure a declaration by the judge that such wife is disentitled to the benefits of this Act. (S. A. 1918, c. 4. s. 52.)

Domicile.

A married woman's legal domicile is the domicile of her husband; and until she is judicially separated from him, she has no other in the eye of the law. The domicile of a woman at the moment of marriage is the same as the domicile of her husband. (English Law, Halsbury, vol. 28, sec. 117.) This fact has consequence upon a woman obtaining a divorce elsewhere that will be recognized by our Courts in Canada.

Slander.

In an action for defamatory words spoken of a woman imputing unchastity or adultery, it shall not be necessary to allege in the plaintiff's Statement of Claim, or to prove that special damage resulted to the plaintiff from the utterance of such words, and the plaintiff may recover damages without averment or proof of special damages. (S. A. 1913, cap. 12. sec. 17.)

This Act repealed the North-West Territory Act, relating to slander. (Cap. 30 of C. O., 1898.)

See also chapter on Marriage section on "torts."

Corrupting Children.

"Sec. 220b. (1) Any person who in the home of a child by indulgence in sexual immorality, in habitual drunkenness or in any other form of vice, causes such child to be in danger of being or becoming immoral, dissolute or criminal, or the

morals of such child to be injuriously affected, or renders the home of a child an unfit place for such child to be in, shall be liable, on summary conviction, to a fine not exceeding five hundred dollars or to imprisonment for a period not exceeding one year or to both fine and imprisonment.

"(2) For the purposes of this section, 'child' means a boy or girl apparently or actually under the age of sixteen years.

"(3) It shall not be a valid defence to a prosecution under this section that the child is of too tender years to understand or appreciate the nature of the act complained of or to be immediately affected thereby."

(4) No prosecution shall be instituted under this section unless it be at the instance of some recognized society for the protection of children or an officer of a juvenile court, without the authorization of the Attorney General of the Province in which the offence is alleged to have been committed, nor shall any such prosecution be commenced after the expiration of six months from the time of the commission of the alleged offence.

MINIMUM WAGE.

In 1919 by a new section 26a in the Factory Act the Lieutenant Governor in Council may appoint in every city or town having a population exceeding five thousand an Advisory Committee to recommend to the chief inspector recommendations respecting hours of labour and wages at which any female person may be employed.

This was amended in 1920 as follows:

The Lieutenant Governor in Council shall appoint five persons, of whom two shall be representative of employers and two of employees, and a fifth to be nominated by the At-

torney General, who shall constitute an advisory committee, whose duty it shall be to investigate and determine the amount that shall be paid as a minimum wage to any person under eighteen years of age and to any female person employed in any factory, shop, office or office building to which this Act applies, and also the number of hours per day per week during which any person shall be required to work in any place, and also to determine what number or proportion of the employees in any shop or factory, office or office building may be apprentices. Such committee shall have power to call witnesses, examine them under oath, and to compel the production of such documents and things as may be necessary. The committee shall from time to time report to the Lieutenant Governor in Council the result of its findings, whereupon the said Council may make an order or orders which shall have the same force and effect as if incorporated herein, and in case of conflict between such order or orders and any part of this Act the provisions of such order or orders shall govern.

The members of the committee shall be paid such compensation as shall be determined by the Lieutenant Governor in Council.

The first minimum wage established in Alberta was \$1.50 per shift. (See Factory Act, 1917, sec. 24.)

ALBERTA ASSOCIATION OF REGISTERED NURSES.

1920.

The corporate name has been changed from "Alberta Association of Graduate Nurses" to "Alberta Association of Registered Nurses."

A graduate nurse resident in the Province at the time of the coming into force of The Registered Nurses Act, who has had at least three years' training in a general hospital is

entitled to be enrolled as a member of the Association on payment of the fee.

The provision that nurses in training at the time of the passing of the Act shall not be required to pass an examination has been repealed and the following substituted:

"Provided, however, that where by or under any law of any other Province, State or country provision is made for registration of nurses and such registration in the opinion of the Senate guarantees as high a standard of qualification as that obtaining in this Province, any nurse registered under such law shall be admitted to practice without being required to take any further examination:

"Provided further that in any other Province, State or country where such registration is not provided for, the Senate shall admit to practice the graduates of any hospital or training school which in its opinion gives training of as high a standard as that given by hospitals and training schools in this Province without requiring them to take any further examination."

The fee for membership has been reduced from \$10.00 to \$5.00.

On approval of the Lieutenant Governor in Council the council of the association may prescribe a distinguishing badge to be worn by members, and any person not registered who uses such badge or who takes or uses the title of Registered Nurse or the letters R.N., or any other words, letters or description calculated to lead people to infer that such person is registered shall be liable upon summary conviction to a penalty of not less than \$10.00 and not more than \$50.00.

Change of Name.

Any person of the full age of twenty-one years being a

British subject by birth or naturalization may change his or her name under the provisions of the Change of Name Act. (S. A., cap. 16, 1916.)

When a married man makes application for change of surname of his wife or any of his or her unmarried minor children the consent of such wife shall first be had thereto.

The word "child or children" includes a child or children adopted under an order of the Supreme Court.

The cost of registering change of given name \$5.00; in every other case \$50.00. For publishing certificate in Albert Gazette \$10.00.

WORKMEN'S COMPENSATION ACT.

Passed 1918, amended 1919.

Administered by the Workingmen's Compensation Board of three members appointed by Lieutenant Governor in Council and is a body corporated.

The members of the board shall receive such salaries as may be fixed by the Lieutenant Governor in Council.

The board shall have the same powers as the Supreme Court for compelling the attendance of witnesses, of examining them under oath and compelling production of books, papers, documents and things.

To cover cost of administration the board shall make an assessment on the employer.

Sec. 20., sub-sec. 5. Upon the board so making an assessment an employer shall be entitled to and shall deduct from the wages of any workman in his employment and pay to the board an amount fixed by the board sufficient in the aggregate to meet the assessment upon any person or persons employed by such workmen in such industry.

Compensation to Widow and Children.

Sec. 48. Where death results from an injury the amount of compensation, not exceeding \$2,500.00 in the whole, shall be—

(a) Expenses of the burial, not exceeding \$100.00;

(b) Where the widow or invalid husband is the sole dependant, a monthly payment of \$30.00;

(c) To a widow or an invalid widower having one or more children, a monthly payment of \$30.00 with an additional monthly payment of \$7.50 for each child under sixteen years of age, to be increased upon the death of the widow or invalid widower to \$10.00, not exceeding in the whole \$160.00 per month;

(d) Where the only dependents are children, \$10.00 per month to each child under sixteen, not exceeding in the whole \$40.00 per month; provided that where there are more than four children the payments may be proportionate;

(e) Where the only dependants are persons other than those mentioned in the foregoing classes, a sum reasonable and proportionate to the pecuniary loss to each dependent occasioned by the death, to be determined by the board, but not to exceed to the parents or parent \$20.00 per month, and not exceeding in the whole \$30.00 per month.

(2) In the case provided for by clause (e) of subsection 1 the payments shall continue so long as in the opinion of the board it might reasonably have been expected had the workman lived he would have continued to contribute to the support of the dependants.

(a) Compensation shall be payable to an invalid child without regard to the age of such child.

(4) Where the board is of the opinion that for any reason it is necessary or desirable that a payment in respect of a

child should not be made directly to its parent, the board may direct that its payment be made to such persons or be applied in such manner as it may deem most for the advantage of the child.

Sec. 48. Subject to the provisions of section 48 if a dependent widow marries the monthly payments to her shall cease, but she shall be entitled in lieu of them to a lump sum of \$480.00, and such lump sum shall be payable within one month after date of her marriage.

(2) Subsection 1 shall not apply to payments to a widow in respect of a child.

Civil Action for Seduction.

The father, or in case of his death, the mother of an unmarried woman, may maintain an action for seduction.

Any other person, who by reason of relation of master or otherwise, may maintain an action if the father or mother be not resident in the Province, or being resident, does not bring an action for seduction within six months from the birth of the child.

Or the person seduced may bring an action in her own name in the same manner as an action for any other tort. (C. O. 1915, cap. 117.)

Some loss of service or possibility of loss of service must be shown as consequent in the seduction, since that is the theory, and ground of action, but when that condition is once satisfied the damages that may be given are by no means limited. (Sir Frederick Pollock, 1904.)

Also as a means of indirectly obtaining a solatium for the woman seduced. (See Laws of England, vol. 13, page 213.)

Also damages for the dishonour to the parent.

